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PROCESS TRANSPARENCY WHITE PAPER

Process transparency is intended to provide foreign customers and U.S. industry greater visibility of what traditionally have been internal USG activities. Our foreign customers and industry believe an increased level of access will promote teamwork, increase customer satisfaction, and assist in the streamlining of the Security Cooperation system. With U.S. foreign policy interests in mind, we are trying to be more proactive to the needs of customers. We are attempting to respond to constructive criticisms while at the same time address a changed set of security challenges. Providing process transparency, where it makes sense, will benefit the USG, US defense industry, and international customers. Military-to-military relationships and access to other countries remain key to our national and regional security and military strategies.

ISSUES:

The U.S. defense industry faces international competitors who are aggressively supported by their respective governments. The USG traditionally maintains a posture of unilaterally controlling transfers of defense articles and services with little or no foreign purchaser/U.S. industry involvement in the process.

Foreign customers want to be more involved in their purchases rather than relying solely on the USG foreign military sales process. International procurement officials are under increasing pressure to provide and explain USG disclosure, contracting, pricing, and supply support details to their senior leaders before, during, and after purchasing a weapon system.

Target areas for transparency include, at a minimum, USG/U.S. industry cooperation, Letter of Offer and Acceptance (LOA) development, and the DoD contracting process. USG practices will be examined, along with DoD policies, directives, and applicable USG statutes, to determine necessary changes, and the best method for implementing those changes.

CURRENT ENVIRONMENT:

Relationship with Industry - Guidance must be developed to define and improve the nature of USG / U.S. industry relationships in the Security Cooperation process. A cooperative rather than competitive USG/U.S. Industry relationship is conducive to furthering a favorable U.S. posture worldwide. While not current standard practice, merging favorable aspects of the FMS and DCS systems into a hybrid package that is more flexible and responsive to the customer's needs better serves our foreign policy interest.

LOA Development - The government-to-government contract, the LOA, is developed by the USG, often with U.S. industry input, in response to customer-submitted requirements. In general terms, the LOA reflects the defense articles and/or services being sold, the estimated cost of the articles/services, the USG costs associated with administering the sale, and the legalities governing the transfer(s). The LOA is the basis for contract negotiations between the USG and

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industry, since it contains the necessary technical information and associated funding. Foreign customer desire greater participation in the LOA development process.

Contracting - The USG has a long-standing FMS policy of acting on behalf of the foreign government during contract negotiations and not allowing our foreign customers to participate in several aspects of the contracting process undertaken on their behalf. Aside from the DFARS limitations, the vast majority of the contracting process can be transparent. Military Departments or buying offices can provide greatly enhanced transparency permitted under the current regulations. USG regulations contain limitations that are not being applied consistently by USG procurement offices. For example, while foreign customer participation in contract price negotiations is precluded, foreign customer participation in technical discussions is not only permitted, but considered desirable.

RECOMMENDATIONS:

Relationship with Industry - In coordination with U.S. industry, USDP and USD(A&T) will develop and issue policy for improving USG involvement with industry, including guidelines for interaction, and disseminate this policy to the implementing agencies. DoD and U.S. Industry will assist each other, where appropriate, regardless of the type of sale, i.e., FMS, DCS, or a combination of the two, once a USG decision is made to sell. The parties will focus on reducing non-productive efforts and improving contract performance. This is accomplished through preparation, commitment, inclusion of appropriate parties, and clear definition of roles. Senior managers within both the USG and industry must be actively involved and continually demonstrate their support for the process while maintaining open communication. Everyone who can impact the performance of the program must be involved, including major subcontractors, user representatives, and contract administration personnel. Participants must fully understand and accept their specific roles and responsibilities, and must be empowered with the requisite decision making authority. The goal is to establish a culture where the USG and U.S. industry work together throughout the program to provide accurate information on requirements and pricing based on the customer's stated need. The "team" output should be reflective of the subsequent contract, be it government-to-government or direct commercial, or a combination. This prevents the foreign government from playing the USG against U.S. industry.

LOA Development - DSCA will issue a policy outlining how much the foreign customer can participate in the FMS case development process. Develop an overall policy directed at meeting the FMS purchaser's needs at the right time, at the right price, and in a way that promotes satisfaction with FMS. More emphasis should be put on helping the purchaser to identify unique requirements and special needs and to balance these needs with the objective of increasing standardization and interoperability.

Contracting - OUSD(A&T) will issue policy on foreign purchaser participation in the DoD contracting process that includes a formal method for eliciting special needs of the foreign customer. Such a policy will encourage appropriate participation in the contracting process. Special needs may be financial, such as a requirement for not-to-exceed price, firm delivery dates, or information that provides confidence that the FMS contract price is reasonable and

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equitable (see Pricing, Finance & USG Cost Recovery white paper). The foreign customer's special needs are coordinated within the USG and US industry in accordance with the USG/US industry partnering arrangement. The USG and US industry jointly determine which needs will be accommodated, and how.